

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Mark LANDESMANN

Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES

Appl. No.: 09/888,439

Filing Date: 6/26/2001

Examiner: Khanh H. LE

Art Unit: 3688

Confirmation Number:  
9934

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR  
PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)/(d)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**Correct Patent Term Adjustment:** Applicants have calculated PTA for the captioned patent, and have determined that the patent is entitled to 1,243 days of Patent Term Adjustment, as shown on the attached sheet, which shows the relevant delays under 37 CFR §§1.702, 1.703 and 1.704:

(a) Total PTO delay: 1,551 days

(b) Total Applicant delay: 308 days

Final PTA Determination: 1,243 days

**Basis and Dates:** Applicant *assumes* that the discrepancy between our calculation and the Office is because delays attributed to the filing of the Federal Circuit DAYCO

PRODUCTS case (2003 Fed. Cir.) Information Disclosure Statements (IDS's) for closely related co-pending patent family applications referenced below were counted against the PTA. Applicant is filing this request based on the fact that these IDS' were filed to report references from office actions in related applications that were a **co-pending parent** and **co-pending continuations** of the parent of the present application, and, that such filings were not made by choice of the applicant, but in order to comply with the applicant's duty of disclosure for related claims. The duty of disclosure was triggered by actions of the Office in other co-pending patent family applications. These office actions comprise "actions taken by the Office" under 37 CFR 1.704(b).

The IDS's filed in the present case that are not subject to reduction of period of adjustment are based on Office Actions of co-pending applications as follows:

- IDS (**EXHIBIT A**) filed December 18, 2006. This IDS cites, within the 3 month 37 CFR 1.704(b) time limit, an Office Action (**EXHIBIT B**) dated October 4, 2006 of a **continuation-in-part** co-pending **parent** application **09/837,377**;

- IDS (**EXHIBIT C**) filed October 23, 2007. This IDS cites a reference, within the 3 month 37 CFR 1.704(b) time limit, first disclosed to applicant by an Office Action (**EXHIBIT D**) dated July 23, 2007 in co-pending application 10/727,496, which is a **continuation** of the common **parent** application **09/837,377**; and

- IDS (**EXHIBIT E**) filed March 18, 2008. This IDS cites references, within the 3 month 37 CFR 1.704(b) time limit, first disclosed to applicant by an Office Action (**EXHIBIT F**) dated January 24, 2008 in co-pending application 10/727,495, which is a **continuation** of the common **parent** application **09/837,377**.

Therefore, counting these IDS' against the PTA is contrary to the law which explicitly guarantees a maximum reduction in the patent term due to the pendency of the application (35 USC 154 (b)(1)). None of the exceptions or caveats to that guarantee apply here (35 USC 154 (b)(2)). (Also, it is noted that filing IDS' is permitted for foreign office actions under 37 CFR 1.704(d). It is fair and equitable to permit the same IDS filings for U.S. office actions of related co-pending applications that trigger an IDS duty on applicants.)

**No Terminal Disclaimer:** This application is not subject to a terminal disclaimer.

Patent Term Adjustment Calculation with PTO Days and Applicant Days: Attached is a patent term adjustment calculation showing PTO delay days and applicant delay days.

37 C.F.R. 1.705(d) states that “Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.” As the above-identified issue could arguably be raised under paragraph (b), the applicant is filing this request for reconsideration under an abundance of caution, in the knowledge that the PTO does not include patent term adjustment resulting from 1.703(b) in its PTA calculations at allowance, even if PTA has stopped accruing due to the filing of an RCE.

In order to obviate the need for applicants to incur the costs associated with these requests in the future, it is respectfully requested that the PTO makes a statement in the standard language in the Notice of Allowance that the calculation does not include any Patent Term Adjustment under 37 C.F.R. 1.703(b).

Applicants therefore respectfully request that the patent be accorded 1,243 days PTA.

A check/credit card payment form in the amount of FEE01 is enclosed for the amount stated in 37 C.F.R. § 1.18(f) to cover the fee for this request.

Fees in the amount of \$200.00 set forth in 37 C.F.R. § 1.18(f) to cover the fee for this request are being paid by credit card via EFS-Web.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. § 1.705, or credit any overpayment, to Deposit Account No. 19-07414. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or

incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date 4/6/10

By WTE/JM

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[CLOSE WINDOW](#)[ADD CASES](#) [SELECT CASE](#)**Patent Term Adjustment Calculation System**

Add a new event to this case

Docket Number:084561-0108  
 Application Number:09/888439  
 Patent Number:N/A

	Event Description	Event Date	Days from Filing	PTO Days	Applicant Days
Edit Delete	Application Filing Date	06/26/2001	0		
	14 month From Application date	08/26/2002	426		
Edit Delete	Non-Final Office Action	09/11/2002	442	16	
	Non-Final Office Action + 3 months	12/11/2002	533		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	03/11/2003	623		90
Edit Delete	Final Office Action	06/19/2003	723		
Edit Delete	Final Office Action Response Received at PTO	08/20/2003	785		
Edit Delete	Advisory Action	09/09/2003	805		
	Final Office Action + 3 months	09/19/2003	815		
Edit Delete	Request For Continued Examination (including amendment)	10/14/2003	840		25
Edit Delete	Non-Final Office Action	12/11/2003	898		
	Non-Final Office Action + 3 months	03/11/2004	989		
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	06/14/2004	1,084		95
	Non-Final Office Action Rsp. Rcv'd at PTO + 4 mo	10/14/2004	1,206		
Edit Delete	Restriction Requirement	11/29/2004	1,252	46	
Edit Delete	Restriction Requirement Response Received at PTO	12/28/2004	1,281		
	Restriction Requirement Response Filed + 4 months	04/28/2005	1,402		
Edit Delete	Final Office Action	05/20/2005	1,424	22	
	Final Office Action + 3 months	08/20/2005	1,516		
Edit Delete	Notice of Appeal Received at PTO	09/20/2005	1,547		31
Edit Delete	Appeal Brief Received at PTO (Non-Compliant)	04/20/2006	1,759		
Edit Delete	Examiner's Answer Mailed	07/17/2006	1,847		
Edit Delete	Reply Brief Received at PTO	09/15/2006	1,907		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	12/18/2006	2,001		
Edit Delete	Advisory Action	05/23/2007	2,157		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	10/23/2007	2,310		
Edit Delete	Notice of Non-Compliant Appeal Brief	12/31/2007	2,379		
Edit Delete	Appeal Brief Received at PTO	01/11/2008	2,390		
Edit Delete	IDS under 1.704(c)(8) filed at PTO	03/18/2008	2,457		67
Edit Delete	Examiner's Answer Mailed	04/16/2008	2,486		

Edit Delete	Reply Brief Received at PTO	06/16/2008	2,547	
Edit Delete	Appeal Decided by Appeal Board; Some Rejections Reversed	07/31/2009	2,957	1411
	Appeal Decided + 4 months	11/30/2009	3,079	
Edit Delete	Non-Final Office Action Rsp. Rcv'd at PTO	12/30/2009	3,109	
Edit Delete	Notice of Allowance	01/25/2010	3,135	56
	Projected Patent Grant Date	08/03/2010	3,325	
			Totals:	1,551
			PTA:	308 1,243

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FOLEY & LARDNER LLP

Version: 3.02.05

LOGIN: Doris Barnes

IP: 10.14.52.25

Foley &amp; Lardner LLP

# **EXHIBIT A**



DEC 18 2006

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the application of: ) Group Art Unit: 3622  
Mark Landesmann ) Examiner: Le, Khanh H  
Application No. 09/888,439 ) Atty. Docket No.: 084561-0108  
Filed: 6/26/2001 )  
For: Buyer Driven Targeting of Purchasing Entities ) Date: 12-12-2006  
 )  
 )

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 2213-1450 on 12-12-2006.

Signed:

Ashok Malani

**INFORMATION DISCLOSURE STATEMENT  
UNDER 37 CFR §§1.56 AND 1.97(e)**

**Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**

Dear Sir:

The references listed in the attached PTO Form 1449(s), at least one of which was provided by an Examiner(s) handling a related patent application(s), copies of which are attached, may be material to examination of the above-identified patent application. Applicants submit these references in compliance with their duty of disclosure pursuant to 37 CFR §§ 1.56 and 1.97. The Examiner is requested to make these references of official record in this application.

This Information Disclosure Statement is not to be construed as a representation that a search has been made, that additional information material to the examination of this application does not exist, or that these references indeed constitute prior art.

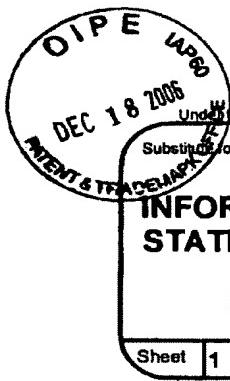
Applicants hereby state that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § 1.56(c) more than three months prior to the filing of the information disclosure statement.

Respectfully submitted,



Ashok Malani

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Substitution for form 1449/PTO

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Approved for use through 03/31/2007. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

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**Complete If Known**

Application Number	09/888,439
Filing Date	26 JUN 2001
First Named Inventor	LANDESMANN, MARK
Art Unit	3622
Examiner Name	LE, KHANH
Attorney Docket Number	084561-010B

## **NON PATENT LITERATURE DOCUMENTS**

<b>Examiner Signature</b>		<b>Date Considered</b>	
-------------------------------	--	----------------------------	--

**TEXA MINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and note considered.  
Include copy of this form with next communication to applicant.

**1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.**

\*Applicant's unique clause designation number (optional).  Applicant is to place a check mark here if English language translation is attached.  
This collection of information is required by 37 CFR 1.88. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:  
**Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

# **EXHIBIT B**



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/837,377	04/19/2001	Mark Landesmann	084561/0105	7342
22428	7590	10/04/2006		
FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER	LE, KHANH H
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/837,377	LANDESMANN, MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Khanh H. Le	3622	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 November 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,77-84,91,112,167-174 and 181 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,77-84,91,112,167-174 and 181 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date See Continuation Sheet.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date, \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

**Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/14/2006; 11/15/2005; 08/09/2005; 01/31/2005; 05/12/2003; 01/29/2002; 11/08/2001; 08/09/2001**

**DETAILED ACTION**

1. This Office Action is responsive to the original application and the preliminary amendment dated November 23, 2004. Claims 1, 77-84, 91, 167-174, 181-112 are pending with claims 1, 91, 181 and 197 as independent.

**Objections to Specifications:**

2. Specifications at page 18 mention Fig. 13: there is no Figure 13. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 91 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldhaber, US 5855008, hereinafter Goldhaber.**

Goldhaber discloses:

A consumer driven system ( i.e. consumer owns the profiles : col 14 l. 56-60; col 6 l. 28-35; consumer shares these profiles as desired: col 8 l. 40-57), via trading houses (see col 19-20), for the benefit of both consumers and advertisers ( col 4 l. 25-31).

The benefit to consumers is to receive competing content/ads customized to their needs/preferences. To advertisers, use of consumer profiles allow reaching more willing customers whose attention has been secured w/ relevant customized ads/offers. GOLDHABER

further discloses actual purchase histories ( or proofs of purchases, hereinafter, "POP's") are known to be valuable for advertisers: to this end advertisers have used point of sale tracking (see GOLDHABER ., col 6 l. 28-35), and GOLDHABER .'s invention includes on-line POP's (col 6 l. 50-65; col 13-20; col 7 l. 31-32).

GOLDHABER discloses user voluntary submission of profiles in exchange of a benefit from plural competing independent providers(col 8 l. 1-18; receipt of targeted information, specialized targeted ads ( col 6 l. 28-35; col 8 l. 22-40), payments for viewing ads); complementing the profile by allowing tracking of on-line behavior including on-line transactions (POP's) (col 6 l. 50-65; col 13-20; col 7 l. 31-32) and tracking of other habits (col 6 l. 50-65) ; interactive user editing/ deletion of transaction records from the profile (col 6 l. 50-65); protection of privacy (col 7 l. 62-67;col 14 l. 137 –39); interacting with presented ads (col. 16 l. 17-20) ; rating of presented ads (col. 13 l. 50-51); matching of consumers to advertisers criteria ( col 14 l. 30-46); consumer profiles stored at their PC or in another database of the on-line system ( col 14 l. 47-54); only information matched above certain threshold set by the consumer is delivered ( col 14 l. 56-62); coupons and discount offers to induce buying (col 3 l. 30-45); internet advantages (col 3 l. 48-55); credit histories as commodities ( col 20 l. 38-55).

Thus, as to claims 1 and 91, Goldhaber discloses:

A computer-implemented method and system for buyer-driven targeting comprising:  
separately receiving directly or indirectly from each of a plurality of buyer entities at least one a-respective third party proof of purchase record (col 6 l. 50-65; col 13-20; col 7 l. 31-32; col 6 l. 50-65)  
storing information associated with said data (col 6 l. 50-65);  
helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential contingent incentives ( col 6 l. 28-35; col 8 l. 22-40);;  
facilitating the offering of at least one of said preferential contingent incentives to said buyer entity ( col 6 l. 28-35; col 8 l. 22-40; col 3 l. 30-45).

**5. Alternate rejection of Claims 1, 91 :**

**Claims 1, 91 are rejected under 35 U.S.C. 102(e) as being anticipated by Jones III et al., US 6925441, herein Jones III.**

As to claims 1, 91, Jones III discloses:

A method and system for buyer-driven targeting comprising:

a first component for separately receiving directly or indirectly from each of a plurality of buyer entities at least one respective third party proof of purchase record (Figs 3, 6 and associated text, col. 5 lines 40-55; col. 13 lines 19-46; 62-67)

a second component for storing information associated with said data (Figs. 3, 6 and associated text, col. 5 lines 40-55; col. 13 lines 19-46; 62-67);

a third component for helping make with respect to at least one of said buyer entities, based at least in part on said data, at least one decision associated with the offering of at least one from among a plurality of different preferential contingent incentives (col. 5 lines 40-55; Fig 3 , especially item 307, and associated text);

a fourth component for facilitating the offering of at least one of said preferential contingent incentives to said buyer entity (abstract, col. 5 lines 40-55; Fig 3 , especially item 307, and associated text).

**Claims Rejections. 35 U.S.C. 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject

matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 77-79, 167-169 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III as applied to claims 1 and 91 above, and further in view of Blahut et al., US 5532735 A, herein Blahut.**

**As to claims 77-78,167-168,**

Jones III does not but Blahut does disclose:

monitoring the receiver of an interactive television (abstract) to determine if an ad is shown by the receiver and has been viewed (not been zapped) ("Zapping means fast forwarding through or otherwise avoiding commercials." (Specifications at [0253])) by the buyer entity (abstract; col. 2 lines 19-24); and

providing an incentive reward to the buyer entity if the ad has been viewed wherein the incentive reward is a reduction in a pay per view charge for a program being viewed at the same time as the ad (abstract; col. 2 lines 19-24).

*(Blahut discloses an interactive television ("ITV") system wherein viewers are allowed to select a desired level of advertisements with which they are provided. The technique comprises transmitting to a interactive services subscriber location a program and a set of advertisements (collectively referred to as a "show"). The set of advertisements is selected based upon an input from a user associated with the interactive services subscriber location. The input comprises an indicator of an amount of advertisements in the set of advertisements. Another feature of the ITV system described is that it allows for adjusting an amount of a bill of a subscriber to interactive television services based upon the amount of advertisements viewed in a show.)*

It would have been obvious to one skilled in the art at the time the invention was made to add Blahut's interactive TV as a communications channel to Jones III because such channel is a "natural" (effective) means of communication (Jones, col. 4 lines 55-58), when the consumer requests information such as pay-per-view content, while further enticing viewing of the ads/offers by subsidizing the content as taught by Blahut.

**As to claims 79, 169:**

Jones III discloses categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records based on a set of categories (col. 11 lines 63-65; col. 13 lines 43-45);

calculating at least one score for a buyer entity (col. 12 lines 61-65) based on the amount purchased in one or more selected categories (col. 13 lines 40-45; col. 14 lines 7-16); and providing incentives determined in accordance with at least one of the scores of the buyer entity (Fig. 8 : "customer value scoring" based on transaction history; col. 14 lines 8-16).

Jones III does not but Blahut does disclose: monitoring the receiver of an interactive television to determine if an ad has been zapped; and providing an incentive to the buyer entity if the ad has not been zapped and wherein the incentive is reduction of pay per view for ad viewed with program (abstract; col. 2 lines 19-24).

It would have been obvious to one skilled in the art at the time the invention was made to add Blahut to Jones III because pay-content viewing is just another purchase transaction and using the interactive TV channel is a "natural" (effective) means of communication when the consumer is so engaged (Jones, col. 4 lines 55-58) while further enticing viewing of the ads/offers by subsidizing the content as taught by Blahut.

**8. Alternate rejection for claims 77-79, 167-169.**

**Claims 77-79, 167-169 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III as applied to claims 1 and 91 above, and further in view of Neel et al., US 5838314.**

As to claims 77-79, 167-169, Jones III discloses categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records based on a set of categories (col. 11 lines 63-65; col. 13 lines 43-45);

calculating at least one score for a buyer entity (col. 12 lines 61-65) based on the amount purchased in one or more selected categories (col. 13 lines 40-45; col. 14 lines 7-16); and providing incentives determined in accordance with at least one of the scores of the buyer entity (Fig. 8 : “customer value scoring” based on transaction history; col. 14 lines 8-16).

Jones III does not disclose but Neel does:  
monitoring the receiver of an interactive television to determine if an ad has been zapped; and providing an incentive to the buyer entity if the ad has not been zapped ( col. 5 lines 31-39) and wherein the incentive is reduction of pay per view for ad viewed w/ program ( col. 5 lines 31-39).

It would have been obvious to one skilled in the art at the time the invention was made to add Neel to Jones III because pay-content viewing is just another purchase transaction and using the interactive TV channel is a “natural” (effective) means of communication when the consumer is so engaged (Jones, col. 4 lines 55-58) while further enticing viewing of the ads/offers by subsidizing the content as taught by Neel.

**9. Claims 80- 84, 170-174, 181-185, 187-192, 194-201, 203-208, 210-212 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III (as applied to claims 1**

**and 191 above for claims dependent thereon), and further in view of Neel et al., US 5838314.**

**As to claims 80, 170, 192, 208,**

Jones/Neel discloses the limitations of these claims that are common to claims 79, or 169 (see above). Further Jones does not disclose but Neel discloses:

selecting ads based on TV program received at receiver (col. 5 lines 24-28) to display in sequence (col. 5 lines 16-21; different ads sent based on what was viewed previously is interpreted as a sequence of different ads). It would have been obvious to one skilled in the art at the time the invention was made to add Neel to Jones so not to repeat the same ads ( Neel, col. 5 lines 16-21).

**As to claims 81, 181 (independent claim), 182, and their parallels 171, 197 (independent claim), 198, 8** Jones III discloses:

categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records based on a set of categories (col. 11 lines 63-65; col. 13 lines 43-45);

calculating at least one score for a buyer entity (col. 12 lines 61-65) based on the amount purchased in one or more selected categories (col. 13 lines 40-45; col. 14 lines 7-16); and providing incentives determined in accordance with at least one of the scores of the buyer entity (Fig. 8: "customer value scoring", col. 14 lines 8-16).

As discussed with respect to claim 80, Jones III does not but however Neel does disclose selecting a sequence of ads to be displayed at a receiver based on a particular television program being received by a receiver of the buyer entity (col. 5 lines 24-28; col. 5 lines 16-21).

Neither Jones III nor Neel teaches ads served based on both a particular television program being received and on the scores of that buyer entity as claimed. However, it would

have been obvious to one skilled in the art at the time the invention was made to add the two above-discussed separate teachings of Jones III and Neel as a synergistic multivariate tool to produce an enhanced better value offer (Jones, abstract, col. 4 lines 10-14).

**As to claims 82, 172, 194, 210,**

as discussed above, Jones III discloses categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records based on a set of categories;

calculating at least one score for a buyer entity based on the amount purchased in one or more selected categories; and

as discussed with respect to claim 80, Neel discloses determining an incentive for viewing a television advertisement based on particular television program being received by a receiver of the buyer entity.

The motivation to combine is the same as above discussed.

**As to claims 83, 173, 195, 211**

as discussed with respect to claim 80, Jones III discloses categorizing of purchases listed from a plurality of independent third parties in the proof of purchase records based on a set of categories; calculating at least one score for a buyer entity based on the amount purchased in one or more selected categories; and

Neel discloses determining an incentive for viewing a television advertisement based on a password entered from a receiver of the buyer entity (col. 5 lines 8-40: the user is inherently identified by some password).

The motivation to combine is the same as above discussed.

**As to claims 84, 174, 184, 191, 196, 200, 212, 207,**  
as discussed with respect to claim 80, Jones III discloses  
categorizing of purchases listed from a plurality of independent third parties in the  
proof of purchase records based on a set of categories;  
calculating at least one score for a buyer entity based on the amount purchased  
in one or more selected categories; and

Neel discloses determining an incentive for viewing a television advertisement based on a  
predetermined response (program entered) from a receiver of the buyer entity (col. 5 lines 15-40)  
The motivation to combine is the same as above discussed.

**As to claims 183, 199, Jones III/** Neel discloses claim 181, and Jones III further  
discloses:

calculating a separate score for a buyer entity in each of a plurality of categories based  
on the amount purchased by the buyer entity in the respective category ( see e.g., Fig 9, item 136  
, an "offer specific variables" score which is based on the particular goods or services and also  
on the particular consumer purchase history, see Fig. 7)

calculating a composite score for a particular buyer entity (Fig 9,:item 144 the "offer  
specific score" ) in accordance with a function of the separate scores for a plurality of selected  
categories for the particular buyer entity (Fig 9,:item 144 is derived from some functions, and  
based in part on item 136 , an "offer specific variables" score which is based on the particular  
goods or services and the particular consumer purchase history, see Fig. 7, ) ; and

wherein said selecting step comprises selecting advertisements based in part on the  
composite score ( Fig 12 and associated text: the offer is made or not based partly on the  
customer composite score, item 174 "offer specific score").

**As to claims 185, 201,** Jones/Neel discloses claim 181. Further, Jones III discloses: calculating scores based on purchases categories (Figs 3, 8) and updating such purchases categories data ( col. 13 lines 47-61 ) (interpreted as recalculating at least one score for a buyer entity for one of the categories based on information on the updated purchase categories).

Jones III does not disclose recalculating the score based on information on video channel viewing habits or the viewing of a particular television program by that buyer entity. However, since pay per view programs are also purchases, which Neel discloses can be monitored for targeted advertising, it would have been obvious to one skilled in the art at the time the invention was made to add recalculating the score based on information on video channel /or program viewing habits, to produce better value offers determined based on multivariate techniques(Jones, abstract,(col. 4 lines 10-14).

**As to claims 187, 203,** Jones/Neel discloses claim 185, and Jones discloses recalculating an incentive by applying said recalculated score of said buyer entity to an incentive function ( Figure 12: calculating of the NPV score based on updated consumer purchase histories, col. 13 lines 47-61. The NPV determines whether an offer is made or not, therefore it is interpreted the incentive is thereby recalculated).

**As to claims 188, 204,** Jones/Neel discloses claim 185, and as discussed in claim 187 above, Jones further discloses providing a plurality of said incentive offers from different advertisers, including each of the plurality of the incentive offers being based on the recalculated score. As discussed above, Jones NPV (Fig. 12) determines whether or not an offer is made thus, when then NPV is based on a recalculated score, it is interpreted that Jones discloses determining the prominence of the offers based on the recalculated score .

**As to claims 189, 205,** Jones III in view of Neel discloses claim 181 and Neel discloses

monitoring the receiver of a video channel to determine if an ad is shown by the receiver and has not been zapped by the buyer entity; and providing an incentive reward to the buyer entity if the ad has not been zapped ( col. 5 lines 15-40 ).

**As to claims 190, 206,** Jones III in view of Neel discloses claim 189 and Neel discloses wherein the incentive reward is a reduction in a pay per view charge for a program being viewed at the same time as the ad ( col. 5 lines 15-40 ). The motivation to combine is the same as above discussed.

**10. Claims 186, 202 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III in view of Neel et al., US 5838314, as applied to claims 185 and 201 above, and further in view of Schultz et al US 5056019 A.**

As to claims 186, 202, Jones/Neel discloses claim 185. Further, Jones III does not disclose determining if the recalculated score qualifies said one of the buyer entities for an ongoing incentive but Schultz discloses offers made continuously to consumers (ongoing incentives) ( col. 6 lines 5-12 ) based on qualified purchases.

It would have been obvious to one skilled in the art at the time the invention was made to add Schultz' on going incentive teaching to Jones/Neel method to encourage further purchases (Schultz, col. 6 lines 5-6, 12).

**11. Claims 193 and 209 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III in view of Neel et al., US 5838314 and Schultz as applied to claims 181 and 197 above, and further in view of Clarke US 5502636A.**

As to claims 193, 209, Jones/Neel discloses the limitations common with claims 181 and 197 above, including sending sequence of ads to particular buyers. Jones/Neel does not disclose the buyers are groups of buyers. However Clarke discloses sending advertising/coupons to groups of consumers based on their profiles via television broadcast (abstract, Figure 1, col. 2 lines 30-41). It would have been obvious to one skilled in the art at the time the invention was made to substitute Clarke plural consumers to Jones/Neel if desiring to reach groups of consumers.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

\*\*\*Garg US 6571216 discloses differential rewards involving many parties and reward schemes with dynamic user profiling.

\*\*\*Tiley et al. US 7020623 discloses equivalency of the different media for delivering ads, e.g. internet TV or cable TV (col. 17 lines 1-40) with cookies used to ID the user. Tiley also discloses categorizing products and rating products in a formula in order to calculate a particular incentive (col. 10 lines 18-65, col. 11 lines 58-62), monitoring purchasers ID and POPs and basing the incentives thereon (col. 9 lines 25-60). Incentives also based on other factors (col. 10 lines 26-29).

Kepecs, US6330543, discloses online offers delivered to users to be redeemed at retail physical stores, targeted offers, individualized discounts determined by comparison matching of users and offers) [6:63-68]; keeping track of online history including offer selection and offer viewing [3:9-18].

Walker US 6571216 discloses customized reward offers to groups based on historical group aggregate performance.

Kurtzman, II et al., US 6144944, discloses efficient delivery of targeted content and ads.  
Merriman, US 2002/0099600, (effective 6/15/98) discloses automatic placement of ads

\*\*Chatani, US 7047302 discloses subsidized pay per view by watching ads, monitoring of ads viewing.

\*\*Logan 5721827 discloses personalized ads delivered with pay per view digital content wherein each viewed ad is monitored and serves to subsidize the costs of the requested digital content.

\*Dedrick US 6016509 discloses metering mechanism for distribution of electronic information.

Dedrick US 5752238 discloses Consumer-driven electronic information pricing mechanism.

\*Dedrick US 574521 discloses method and apparatus for providing electronic advertisements to end users in a consumer best-fit pricing manner

Hailpern et al, US 6922672, discloses targeted promotions dynamically delivered to tracked online, TV, ppv, and mobile consumers and changing based on composition of customers pool and goods/services inventory (see col. 4).

Cantrell, US 2002/0194215 A1, effective date:  
10/31/2000, discloses an advertising application providing advertisers with the tools to generate and control an advertising campaign and supporting a multitude of publishers.

Cantrell, US 2002/0103698 A1, effective date: 10/31/2000, discloses advertiser control over the creation and deployment of online ad campaigns through a web-browser interface, including the design of the ad, the selection of an advertising channel in which the created ad will be displayed, the monitoring of the effectiveness of the advertising campaign, and the redesign and redeployment of the ad.

U.S. Pat. No. 5,285,278 also teaches a television-based coupon reception system. Coupon information is encoded into a television broadcast signal and decoded at the consumer's television by circuitry similar to that used for closed-caption broadcast decoding. The extracted coupon information is then recorded on a medium such as a magnetic stripe card or a microprocessor-based "smart card". The user can then present the medium at the supermarket in order to automatically receive the appropriate discount.

U.S. Pat. No. 5,249,044 to Von Kohorn describes a television-based coupon reception system wherein coupon information is transmitted along with program information to a broadcast audience. A member of the audience can generate a coupon for subsequent redemption at a store.

The consumer uses a signaling device (such as a key pad controller for a set-top box) to enter an offer code for the item or service desired and a household identification code. That information is stored, then later transmitted in a data packet to a single broadcast location. Subsequently, a return signal from the single broadcast location generates, via a printer device interfaced with the television and set-top box, a coupon or other reward. This method would enable consumers to self-select preferred rewards for products and services.

Wachob US 5115591 discloses targeted ads delivered through cable TV, with alternating/substituting channels, procreation of viewers who watch together for targeted content delivery.

\* degrees of relevance to this application

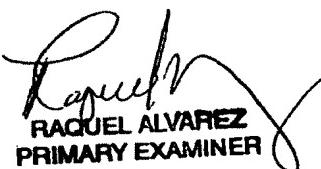
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are **571-273-8300** for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 29, 2006

KHL

  
RAQUEL ALVAREZ  
PRIMARY EXAMINER

<b>Notice of References Cited</b>		Application/Control No.	Applicant(s)/Patent Under Reexamination LANDESMANN, MARK	
		Examiner Khanh H. Le	Art Unit 3622	Page 1 of 2

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,855,008	12-1998	Goldhaber et al.	705/14
*	B	US-6,925,441	08-2005	Jones et al.	705/10
*	C	US-5,532,735	07-1996	Blahut et al.	725/32
*	D	US-5,838,314	11-1998	Neel et al.	725/8
*	E	US-5,056,019	10-1991	Schultz et al.	705/14
*	F	US-5,502,636	03-1996	Clarke, F.G.E.	705/10
*	G	US-6,571,216	05-2003	Garg et al.	705/14
*	H	US-7,020,623	03-2006	Tiley et al.	705/26
*	I	US-6,330,543	12-2001	Kepecs, Jonathan	705/14
*	J	US-6,571,216	05-2003	Garg et al.	705/14
*	K	US-6,144,944	11-2000	Kurtzman et al.	705/14
*	L	US-2002/0099600	07-2002	MERRIMAN et al.	705/14
*	M	US-7,047,302	05-2006	Chatani et al.	709/229

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

<b>Notice of References Cited</b>		Application/Control No.	Applicant(s)/Patent Under Reexamination LANDESMANN, MARK	
		Examiner Khanh H. Le	Art Unit 3622	Page 2 of 2

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,721,827	02-1998	Logan et al.	709/217
*	B	US-6,016,509	01-2000	Dedrick, Rick	709/224
*	C	US-5,752,238	05-1998	Dedrick, Rick	705/14
*	D	US-6,922,672	07-2005	Hailpem et al.	705/14
*	E	US-2002/0194215	12-2002	Cantrell et al.	707/500
*	F	US-2002/0103698	08-2002	Cantrell, Christian	705/14
*	G	US-5,285,278	02-1994	Holman, Michael J.	725/23
*	H	US-5,249,044	09-1993	Von Kohorn, Henry	725/23
*	I	US-5,155,591	10-1992	Wachob, David E.	725/35
*	J	US-5,724,521	03-1998	Dedrick, Rick	705/26
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

# **EXHIBIT C**



1/PK 3622

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
ATTORNEY DOCKET NO. 084561-0108**

Applicant: **Mark LANDESMANN**

Title: **BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES**

Appl. No.: **09/888,439**

Filing Date: **06/26/2001**

Examiner: **Khanh H. Le**

Art Unit: **3622**

Confirmation Number: **9934**

**INFORMATION DISCLOSURE STATEMENT  
UNDER 37 CFR §1.56**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith on Form PTO/SB/08 is a listing of a document known to Applicant in order to comply with Applicant's duty of disclosure pursuant to 37 CFR §1.56.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

10/24/2007 DEMMANU1 00000091 09888439  
01 FC:1006 180.00 OP

**TIMING OF THE DISCLOSURE**

The listed document is being submitted in compliance with 37 CFR §1.97(d), before payment of the issue fee.

**RELEVANCE OF EACH DOCUMENT**

All of the documents are in English.

Applicant respectfully requests that each listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

**STATEMENT**

The undersigned hereby states in accordance with 37 CFR §1.97(e)(2) that no item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of the information disclosure statement.

**FEE**

A credit card payment form in the amount of \$180.00 is enclosed in accordance with 37 CFR §1.17(p) to cover the fee associated with an information disclosure statement under 37 CFR §1.97(d) in the amount of \$180.00.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a

Appl. No. 09/888,439

Atty. Dkt. No. 044499-0108

rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

October 23, 2007

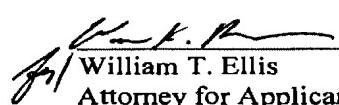
Date

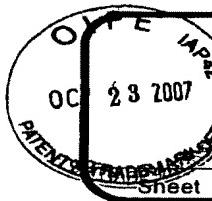
FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5485

Faxsimile: (202) 672-5399

 Reg. No. 51,396  
William T. Ellis  
Attorney for Applicant  
Registration No. 26,874



Substitute for form 1449/PTO

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Date Submitted: October 23, 2007

(use as many sheets as necessary)

Sheet

1 of 1

## Complete if Known

Application Number	09/888,439
Filing Date	06/26/2001
First Named Inventor	Mark LANDESMANN
Art Unit	3622
Examiner Name	Khanh H. Le
Attorney Docket Number	084561-0108

## U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
A1	US - 7,150,030		12-12-2006	ELDERING et al.	

## UNPUBLISHED U.S. PATENT APPLICATION DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Application Document	Filing Date of Cited Document MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Serial Number-Kind Code <sup>2</sup> (if known)			

## FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)				

## NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.				T <sup>6</sup>

Examiner Signature	Date Considered

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 801.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

# **EXHIBIT D**



UNITED STATES PATENT AND TRADEMARK OFFICE

W  
UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,496	12/05/2003	Mark Landesmann	084561-0124	7229
22428	7590	07/23/2007	EXAMINER	
FOLEY AND LARDNER LLP			LE, KHANH H	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW			3622	
WASHINGTON, DC 20007				
MAIL DATE		DELIVERY MODE		
07/23/2007		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.  
The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)									
	10/727,496	LANDESMANN, MARK									
	Examiner Khanh H. Le	Art Unit 3622									
<p>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</p> <p><b>Period for Reply</b></p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any seemed patent term adjustment. See 37 CFR 1.704(b).</li> </ul>											
<p><b>Status</b></p> <p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>04/30/2007</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is FINAL.                    2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>											
<p><b>Disposition of Claims</b></p> <p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-9 and 12-14</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-9 and 12-14</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>											
<p><b>Application Papers</b></p> <p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</p> <p>11)<input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p>											
<p><b>Priority under 35 U.S.C. § 119</b></p> <p>12)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)<input type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:            1.<input type="checkbox"/> Certified copies of the priority documents have been received.            2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.            3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p>											
<p><b>Attachment(s)</b></p> <table border="0"> <tr> <td>1)<input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</td> <td>4)<input type="checkbox"/> Interview Summary (PTO-413)</td> </tr> <tr> <td>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</td> <td>Paper No(s)/Mail Date. _____</td> </tr> <tr> <td>3)<input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/30/07; 02/27/07; 12/18/06</u>.</td> <td>5)<input type="checkbox"/> Notice of Informal Patent Application</td> </tr> <tr> <td></td> <td>6)<input type="checkbox"/> Other: _____</td> </tr> </table>				1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)	2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____	3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/30/07; 02/27/07; 12/18/06</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application		6) <input type="checkbox"/> Other: _____
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3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/30/07; 02/27/07; 12/18/06</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application										
	6) <input type="checkbox"/> Other: _____										

#### **DETAILED ACTION**

1. This Office Action is responsive to the correspondence received 04/30/2007.

**Claims 1-9 and 12-14, 16-42 are pending with claims 1, 16 and 28 as independent.** (Claims 1-9 and 12-14 have been amended. Claims 10-11, 15 have been cancelled. New claims 16-27, 28-42 have been added).

2. In view of the amendments, new grounds of rejection follow. Applicant's arguments are either moot or addressed either by the new grounds of rejection or at paragraphs 12a, 12b, 15 below.

Previous rejections of Claim 4 under 35 U.S.C. 112, 1<sup>st</sup> and 2nd paragraphs, are withdrawn following its amendment.

##### ***Claim Rejections - 35 USC § 112 (second paragraph)***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112: The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1-9 and 12-14, 16-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

5. Independent claims 1, 16, 28:

"facilitating the making of a request" is unclear as to whether the request is made or not in method claim 16; in claims 1 and 28, it's unclear what the program code or the system component does to facilitate making the request, e.g. does it display a request screen or just allow login or something else? All dependent claims are rejected because of the dependency.

6. dependent claims 3, 18, 30:

"said receiving" lacks clear antecedent basis as there are 2 receiving steps in independent claims 1, 16, 28.

7. dependent claims 5-6, 20-21, 32-33:

“the information” is unclear because lacking clear antecedent basis. There is the “information derived from the third party purchase records” in independent claims 1, 16, 28 (which don’t influence weighing of ratings) and the “information comprised in the respective purchase records” in dependent claims 4, 19, 31 (which influence weighing of ratings).

The phrase is interpreted as the “information comprised in the respective purchase records” in dependent claims 4, 19, 31 (which influence weighing of ratings).

Correction is required to all the above.

***Claim Rejections - 35 USC § 112 (first paragraph)***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claim 14, 27, 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention..

claims 14, 27, 39 :  
Support in the Specifications for “wherein a targeted advertisement is sent to the responding buyer entity based at least in part on the received rating” cannot be found. Rewards for providing a rating is disclosed but rewards are different from targeted advertisements based on ratings.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary

skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**11. Claims 1-9 and 12-14, 16-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones III et al, US 6925441 (herein Jones) in view of Bergh, US 6,112,186 (herein Bergh).**

**12. Jones discloses (independent claims 1, 16, 28 and dependent claims 9, 24, 36):**

A method and computer system, comprising:

a memory; and

one or more processors operably connected to the memory for implementing the following components:

a component for receiving a first plurality of third party (col. 3 lines 32-37; col. 5 lines 40-55; col. 5 line 66 to col. 6 line 5; col. 6 lines 6-16: the multiple participant content providers of the marketing network read on third parties, as opposed to the “neutral agent”, col. 5 line 44 ) purchase records or information derived therefrom in a manner assisted by a respective first plurality of buyer entities (col. 5 line 66 to col. 6 line 5: implicit buyer’s consent or permission to collect data from third parties via issued card, upon buyer’s signing up with the system) which made respective purchases evidenced in said respective third party purchase records (Figs 3, 6 and associated text, col. 5 lines 40-55; col. 13 lines 19-46; 62-67);

a component for selecting a purchasing group of selected-buyer-entities (col. 7 lines 12-14 ) ; from the first plurality of buyer entities by including a particular buyer entity in the purchasing group only if the received third party purchase record for that buyer entity indicates that the buyer entity has purchased a particular product or type of product (*Figs 3, 8 : “customer value scoring” based on transaction history ; col. 11 lines 63-65; col. 13 lines 43-45; col. 12 lines 61-65; col. 14 lines 8-16*);

Jones does not disclose getting the buyers to rate the purchased item.

However, Bergh, in a similar buyer profile collecting scheme, which profiles suggest purchases (col. 3 lines 25-36: restaurant purchases; col. 4 lines 26-28 and 55-57: read on tracking online purchases), discloses:

a component for facilitating the making of a request to at least one of the buyer entities in the purchasing group to provide at least one rating of at least one item associated with the particular product or type of product purchased (col. 4 lines 15-18);

a component for receiving a rating from the at least one responding buyer entity ( col. 3 lines 48-49; col. 4 lines 33-38);

a component for creating an average rating relating to the item (col. 3 lines 63-66; col. 13 lines 50-52; col. 14 lines 18-20);

and

a component for displaying the average rating on a website (col. 14 lines 17-32; col. 17 lines 45-51; Fig. 6 item 64).

It would have been obvious to one skilled in the art at the time the invention was made to add Berg's request for rating to Jones's communications with shoppers to tap into the large pool of shoppers with experience in purchasing particular categories as taught by Jones and harness that experience to provide reliable ratings as taught by Berg (col.11 lines 44-54: "*experience or reputation in a particular domain*").

12a. Applicants argue "verified" purchase histories" (page 9, last paragraph). It is interpreted the purchase records are proof or evidence of purchases therefore verify them. If Applicants intend verification to mean, e.g., more double checking with merchants databases to ensure the submitters do not lie, the additional steps are not claimed.

12b. Applicants argue lack of motivation. Adequate motivation is discussed above.

13. JONES does not disclose (dependent claims 2,17, 29 and 4, 19, 31) but Berg discloses:

a component for assigning different weights to ratings from different buyer entities (col.11 lines 45-54: "*experience or reputation in a particular domain*" ) where the average rating is at least partly based on the weights (col. 13 lines 50-52; col. 14 lines 18-20).

As stated above, it would have been obvious to one skilled in the art at the time the invention was made to add Berg to Jones to tap into the large pool of shoppers with experience (by purchasing particular categories) as taught by Jones and harness that experience to provide reliable ratings as taught by Berg (col.11 lines 44-54).

Further, since buying in a particular domain give buyers experience or reputation in that domain, it would have been obvious to one skilled in the art at the time the invention was made to give more weight to the ratings of such buyers. Thus it would have been obvious to "assign different weights to ratings from different buyer entities in the purchasing group based on

information comprised in the respective purchase records" since purchase records are evidence of such buying.

14. JONES /BERGH does not specifically disclose (dependent claims 5-6, 20-21, 32-33 ):

the different weights assigned to ratings from different buyer entities in the purchasing group are based on information which is the amount of money spent or the number of purchases made by the responding buyer entity on/in a category to which the rated item belongs.

However, as discussed in claim 2, BERGH discloses ratings by users for items are weighted based on the users' experience of the item with higher weight as the experience increases (col. 4 lines 33-35; col. 11 lines 44-54). Since the amount of money spent or the number of purchases made by a responding buyer entity on/in a category to which the rated item belongs is indicative of the buying and using experience such responding buyer has, it would have been obvious to one skilled in the art at the time the invention was made to add such weighing factors to Jones/ BERGH.

**JONES further discloses:**

15. (dependent claims 3, 18, 30) receiving the purchase records from the buyer entity (citations above, via the customer card);

**Note:** Applicants argue purchase records are obtained directly from buyers. That's not claimed. "[F]rom the buyer entity" allows via an intermediary like a system which issues a card.

16. (dependent claims 7, 22, 34; and 8, 23, 35):

wherein the request comprises a preferential reward offer and wherein the amount of the preferential reward offer is based at least in part on information comprised in purchase records on purchases made by the selected buyer entity (abstract, col. 5 lines 40-55; Fig 3, especially item 307, and associated text);

17. (dependent claims 12, 25, 37):

wherein the buyer assisted manner is receiving the purchase record or information derived therefrom at least in part by previously having issued a payment card to the buyer entity ( see independent claims);

18. (dependent claims 13, 26, 38 ):

wherein the buyer assisted manner comprises receiving permission from the purchase-data providing buyer entity to obtain the purchase record information from a third party (see independent claims);

19. (dependent claims 40-42) (which depend on claims 2,17,29):  
wherein the request comprises a preferential reward offer (abstract; col. 3 lines 30-42).

**20. Jones does not disclose (dependent claims 14, 27, 39 )**  
wherein a targeted advertisement is sent to the responding buyer entity based at least in part on the received rating.

However Berg discloses that raters (e.g. user A and B) with similar ratings on particular items are considered "neighbors".

Detailed Description Text - DTEX (38):

In some embodiments, users are placed in the rating user's neighbor set based on considerations other than the similarity factor between the rating user and the user to be added to the set. For example, the additional information associated with item ratings may indicate that whenever user A has rated an item highly, User B has sampled that item and also liked it considerably. The system may assume that User B enjoys following the advice of User A. "

Average weighted ratings of neighbors are used to recommend particular items (targeted advertisement) to the user (e.g. user A) (abstract). Thus the recommendations to A is based "at least in part on the received rating" of user A .

It would have been obvious to one skilled in the art at the time the invention was made to add this feature of Bergh to Jones to make targeted offers with a high probability of acceptance as taught by Bergh.

### Double patenting

21. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one

examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**22. Claims 1-9 and 12-42 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 10/727,495, herein "the /495 application".**

Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims essentially involve the methods and systems to carry out the steps of :

searching a database of consumers who had consumed a certain item, display a request for rating the item, receive the rating, create an average rating, display the average rating.

For example, claim 15 of /495 closely mirrors the instant claim 2 except the item consumed and rated is a particular video program. Since it is well-known a particular video program is just another consumer item/service, it would have been obvious to one skilled in the art at the time of the invention to eliminate this detail and arrive at the instant claim 2 for the advantage of extending the claim to a wide range of products/services.

Broader instant independent claims 1, 16, 28 would be obvious over claim 15 of /495 by eliminating details. See *In re Karlson*, 136 USPQ 184. Omission of a feature whose function is not needed would have been obvious to those of ordinary skill in the art.

The rest of the instant claims (3-9 and 12-15, 17-27, 29-42) would have been obvious as taught by claim 15 of /495 in view of the other claims of /495 which essentially carry the same limitations as instant claims 3-9 and 12-15, 17-27, 29-42, albeit in computer product format.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Conclusion***

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Eldering et al. US 7150030 B1 discloses consumer control of purchase records to sell to third parties (Brief Summary Text - BSTX (13)).

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

25. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh H. Le whose telephone number is 571-272-6721. The Examiner works a part-time schedule and can normally be reached on Tuesday-Wednesday 9:00-6:00.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for regular communications and for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-3600. For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314).

Application/Control Number: 10/727,496  
Art Unit: 3622

Page 10

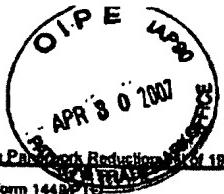
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

July 18, 2007

*[Signature]*

KHL

DONALD L. CHAMPAGNE  
PRIMARY EXAMINER



PTO/SB/088 (09-08)

Approved for use through 03/31/2007. OMB 0851-0031  
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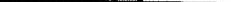
## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

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**Attorney Benjamin J. Boyce**

Examiner Signature		Date Considered	6/25/02
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**\*EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 608. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

**1** Applicant's unique citation designation number (optional). **2** Applicant is to place a check mark here if English language Translation is attached.  
This collection of information is required by 37 CFR 1.88. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO:  
**Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Семёнов К. Ключи

Application Number	10/727,496
Filing Date	05 DEC 2003
First Named Inventor	LANDESMANN, MARK
Art Unit	2611
Examiner Name	BOYCE, ANDRE
Attorney Docket Number	084561-0124

FEB 27 2007  
USPTO TRADEMARK REGISTRATION

## NON PATENT LITERATURE DOCUMENTS

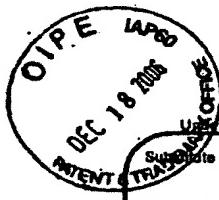
Examiner Signature		Date Considered	6/25/07
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**EXAMINER:** Initial if reference considered, whether or not citation is in conformance with MPEP 608. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.88. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. Instead, send them directly to the USPTO's Trademark Office, 1500 C Street, N.W., Washington, D.C. 20530.

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PTO/SB/08A (09-08)

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Subject to further notice.

Substitute for form 144B/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> <i>(Use as many sheets as necessary)</i>		Required by law to collect information unless it contains a valid OMB control number <b>Complete If Known</b>	
Sheet	1	of	1
		Application Number	10/727,496
		Filing Date	05 DEC 2003
		First Named Inventor	LANDESMANN, MARK
		Art Unit	2611
		Examiner Name	BOYCE, ANDRE
		Attorney Docket Number	084561-0124

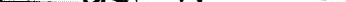
## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

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Examiner Signature		Date Considered	6/25/07
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1 Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.  
This collection of information is required by 37 CFR 1.68. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1430, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PCD-8199 (1-800-723-8199) and ask for a copy of the "How to Complete Your Form" booklet.

<b>Notice of References Cited</b>		Application/Control No. 10/727,496	Applicant(s)/Patent Under Reexamination LANDESMANN, MARK	
Examiner Khanh H. Le		Art Unit 3622		Page 1 of 1
<b>U.S. PATENT DOCUMENTS</b>				

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-7,150,030	12-2006	Eldering et al.	725/46
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

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	P					
	Q					
	R					
	S					
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*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
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\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

# **EXHIBIT E**



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**ATTORNEY DOCKET NO. 084561-0108**

Applicant: Mark LANDESMANN  
Title: BUYER-DRIVEN TARGETING OF PURCHASING ENTITIES  
Appl. No.: 09/888,439  
Filing Date: 06/26/2001  
Examiner: Khanh H. Le  
Art Unit: 3622  
Confirmation Number: 9934

**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 CFR §1.56**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith on Form PTO/SB/08 is a listing of documents known to Applicant in order to comply with Applicant's duty of disclosure pursuant to 37 CFR §1.56.

A copy of each non-U.S. patent document and each non-patent document is being submitted to comply with the provisions of 37 CFR §1.97 and §1.98.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicant does not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

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**TIMING OF THE DISCLOSURE**

The listed documents are being submitted in compliance with 37 CFR §1.97(d), before payment of the issue fee.

**RELEVANCE OF EACH DOCUMENT**

All of the documents are in English.

Applicant respectfully requests that each listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

**STATEMENT**

The undersigned hereby states in accordance with 37 CFR §1.97(e)(2) that no item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to the knowledge of the undersigned, after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of the information disclosure statement.

**FEE**

A credit card payment form in the amount of \$180.00 is enclosed in accordance with 37 CFR §1.17(p) to cover the fee associated with an information disclosure statement under 37 CFR §1.97(d) in the amount of \$180.00.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a

Appl. No. 09/888,439

Atty. Dkt. No. 044499-0108

rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,



\_\_\_\_\_  
William T. Ellis  
Attorney for Applicant  
Registration No. 26,874

March 18, 2008

Date

FOLEY & LARDNER LLP

Customer Number: 22428

Telephone: (202) 672-5485

Facsimile: (202) 672-5399

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Substitute for form 1449/PTO <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b> Date Submitted: March 18, 2008 (use as many sheets as necessary)				<b>Complete if Known</b>	
Sheet	1	of	1	Application Number	09/888,439
				Filing Date	06/26/2001
				First Named Inventor	Mark LANDESMANN
				Art Unit	3622
				Examiner Name	Khanh H. Le
				Attorney Docket Number	084561-0108

**U.S. PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code <sup>2</sup> (if known)			
A1		US - 5,734,720	03-31-1998	SALGANICOFF	
A2		US - 6,317,881	11-13-2001	SHAH-NAZAROFF et al.	
A3		US - 7,143,089	11-28-2006	PETRAS et al.	
A4		US - 7,167,842	01-23-2007	JOSEPHSON et al.	

**UNPUBLISHED U.S. PATENT APPLICATION DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	U.S. Patent Application Document	Filing Date of Cited Document MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Serial Number-Kind Code <sup>2</sup> (if known)			

**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Documents	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.) date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>6</sup>
	A5	MAGILL, Ken, "Firm to Offer Cash for Consumer Profiles," iMarketing News, Vol. 2, No. 10, March 13, 2000, pp. 1-3.	

Examiner Signature	Date Considered
--------------------	-----------------

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 608. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. 6 Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

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# **EXHIBIT F**



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,495	12/05/2003	Mark Landesmann	084561-0123	7219
22428	7590	01/24/2008	EXAMINER	
FOLEY AND LARDNER LLP			HANCE, ROBERT J	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW			4134	
WASHINGTON, DC 20007				
MAIL DATE		DELIVERY MODE		
01/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/727,495	LANDESMANN, MARK
	<b>Examiner</b> ROBERT HANCE	<b>Art Unit</b> 4134

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 05 December 2003.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) 1 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 05 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>12/05/2003; 05/13/2005; 08/09/2005; 11/15/2005;</u> <u>07/18/2006; 12/18/2006; 02/27/2007; 04/30/2007; 07/17/2007; 10/23/2007.</u>	6) <input type="checkbox"/> Other: _____

**Continuation Sheet (PTOL-326)**

**Application No.**

## DETAILED ACTION

### ***Claim Objections***

1. Claim 1, line 5 is objected to because of the following informalities: "the display" lacks antecedent basis. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claim 1** is rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff et al., US Patent 6,317,881, in view of Salganicoff, US Patent 5,734,720.

As to **claim 1**, Shah-Nazaroff et al. disclose effectuating the display of an electronic request to at least one of the buyer entities in the consumption group to request at least one rating of at least one program that it consumed (col. 7 lines 32-35; Figure 6); receiving the ratings of at least one responding buyer entity (Figure 1); creating an average (col. 5 lines 54-65 shows one example where a weighted average is created) rating for the program (col. 3 lines 5-15); and displaying the rating (claim 19 "providing the rating of the broadcast through an electronic communications device for display to potential subsequent viewers of the broadcast.").

Shah-Nazaroff et al. are silent as to searching a database for buyer entities that have consumed a particular video program to obtain a consumption group; however,

Salganicoff et al. disclose storing users' viewing history in a database (col. 38 lines 65-67; col. 39 lines 1-10) and requesting ratings from each user of each movie viewed (col. 39 lines 30-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Salganicoff and Shah-Nazaroff. A rationale would have been to use a pre-existing database, such as the database disclosed by Salganicoff et al., to request ratings from users who have viewed a particular program, thus enabling the system of Shah-Nazaroff to gather ratings from users who have viewed these programs in the past. This would have been obvious because a person of ordinary skill in the art would have been motivated to combine the prior art to achieve the claimed invention and there would have been a reasonable expectation of success.

4. **Claims 2-7 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff et al., US Patent 6,317,881, in view of Salganicoff, US Patent 5,734,720 as applied to claims 1 above, and in further view of Petras et al., US Patent No 7,143,089.

As to **claim 2**, Petras et al. disclose weighting the ratings from the individual buyer entities in the consumption group based on at least one criterion; and where the creating of the average rating is at least partly based on the weighted ratings (col. 17 lines 39-47; col. 7 lines 35-64). It would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al. with that of Shah-Nazaroff in view of Salganicoff. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (col. 49 lines 50-53).

As to **claim 3**, Petras et al. disclose at least one of the at least one criteria relating to the knowledge and experience of the entity that made the rating (col. 7 lines 35-64). Petras et al. do not explicitly disclose ratings weighted based on "consumption history"; however, it would have been obvious to one of ordinary skill in the art at the time of the invention that "experience with such database subject" (col. 7 lines 37-38) is a measure of "consumption history". Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al. with that of Shah-Nazaroff in view of Salganicoff. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (col. 49 lines 50-53).

As to **claim 4**, Petras et al. disclose at least one of the at least one criteria relating to the knowledge and experience of the entity that made the rating (col. 7 lines 35-64). Petras et al. do not explicitly disclose ratings weighted based on "prior viewing history"; however, it would have been obvious to one of ordinary skill in the art at the time of the invention that "experience with such database subject" (col. 7 lines 37-38) is a measure of "prior viewing history". Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al. with that of Shah-Nazaroff in view of Salganicoff. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (col. 49 lines 50-53).

As to **claim 5**, Petras et al. disclose at least one criteria is the experience with the database subject. It would have been obvious to one of ordinary skill in the art at

the time of the invention that "knowledge of and experience with such database subject" (col. 7 lines 37-39) is a measure of "prior viewing history by the responding buyer entity in a category to which the rated program belongs." Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al. with that of Shah-Nazaroff in view of Salganicoff. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (col. 49 lines 50-53).

As to **claim 6**, Petras et al. do not explicitly disclose at least one of the criteria is the number of programs watched by the household associated with the responding buyer entity in a category to which the rated program belongs. However, Petras et al. do disclose weighting the ratings of an individual based on his "knowledge of and experience with" a subject (col. 7 lines 35-64). It would have been obvious to one of ordinary skill in the art at the time of the invention that the "knowledge of and experience with" a subject is a measure of "number of programs watched by the household associated with the responding buyer entity in a category to which the rated program belongs", thus the ratings are weighted based on the same criteria. Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al. with that of Shah-Nazaroff in view of Salganicoff. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (col. 49 lines 50-53).

As to **claim 7**, Shah-Nazaroff et al. disclose a feedback request comprising a preferential reward offer (col. 3 lines 32-46; claim 5). It would have been obvious to one

of ordinary skill in the art at the time of the invention to combine the teachings of Shah-Nazaroff et al. in view of Salganicoff with the teachings of Petras et al. as applied to claim 3. The motivation would have been to "encourage viewer to give feedback. For instance, the more feedback programming guide receives, the more accurate the ratings are likely to be, and the more valuable the ratings are likely to be for programming service providers and potential subsequent viewers." (Shah-Nazaroff et al. col. 3 lines 33-40).

As to **claim 9**, Shah-Nazaroff et al. disclose providing the rating of the broadcast through an electronic communications device (i.e. a website) for display to potential subsequent viewers of the broadcast (col. 12 lines 48-50). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Shah-Nazaroff et al. in view of Salganicoff, with the teachings of Petras et al. as applied to claim 3. The motivation would have been to "encourage viewer to give feedback. For instance, the more feedback programming guide receives, the more accurate the ratings are likely to be, and the more valuable the ratings are likely to be for programming service providers and potential subsequent viewers." (Shah-Nazaroff et al. col. 3 lines 33-40).

4. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff et al., US Patent 6,317,881, in view of Salganicoff, US Patent 5,734,720, and in further view of Petras et al., US Patent No 7,143,089, as applied to claim 7 above, and further in view of Meyer et al., US Patent No 6,915,271.

Regarding **claim 8**, Meyer et al. disclose a promotion incentive with “value depending on consumer characteristic(s) ... the displayed incentive value may depend on ... the consumer purchasing history ...” (col. 9 lines 25-33) It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Meyer et al. with Shah-Nazaroff et al., in view of Salganicoff and in further view of Petras et al., as applied to claim 7 above. The motivation would have been that “a company ... may want to provide a more valuable incentive to one type of potential customer” (Meyer et al. col. 1 lines 54-58).

5. **Claims 10 – 12, 15-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff et al., US Patent 6,317,881, in view of Salganicoff, US Patent 5,734,720, and in further view of Petras et al., US Patent No 7,143,089 as applied to claim 3 above, and in further view of iMarketing News, v2, n10, p1+, 03/13/2000 (hereinafter iMarketing News).

As to **claim 10**, iMarketing News discloses gathering personal information in a buyer-assisted manner from at least one consumption-data providing buyer entity (see Abstract).

As to **claim 11**, iMarketing News discloses receiving the consumption record from the consumption-data providing buyer entity (see Abstract).

As to **claim 12**, iMarketing News discloses issuing payment (i.e. a payment card) in exchange for personal information (see Abstract).

It would have been obvious to one of ordinary skill in the art to buy user consumption record information, as taught by iMarketing News, with the teachings of Shah-Nazaroff et al., US Patent 6,317,881, in view of Salganicoff, US Patent 5,734,720, and in further view of Petras et al., US Patent No 7,143,089 as applied to claim 3. The motivation for this combination is provided by iMarketing News: "for example, rather than just placing ads by context of by demographics, a cookbook merchant could offer to pay for the profiles of consumers who visit a cookbook page at Amazon.com. ... with profiles, you can look at them and say "these are the types of people we want to target with cookbook offers" and go back and buy advertising aimed at people who match those profiles."

As to **claim 15**, Shah-Nazaroff et al. disclose effectuating the display of an electronic request to at least one of the buyer entities in the consumption group to request at least one rating of at least one program that it consumed (col. 7 lines 32-35; Figure 6) and displaying (claim 19 "providing the rating of the broadcast through an electronic communications device for display to potential subsequent viewers of the broadcast.") the average rating (col. 5 lines 54-65 shows one example where a weighted average is created).

Shah-Nazaroff et al. are silent as to storing consumers' consumption record information in a database and searching the database for buyer entities that have consumed a particular video program to obtain a consumption group; however, Salganicoff et al. disclose storing users' viewing history in a database (col. 38 lines 65-

67; col. 39 lines 1-10) and requesting ratings from each user of each movie viewed (col. 39 lines 30-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Salganicoff and Shah-Nazaroff. A rationale would have been to use a pre-existing database, such as the database disclosed by Salganicoff et al., to request ratings from users who have viewed a particular program, thus enabling the system of Shah-Nazaroff to gather ratings from users who have viewed these programs in the past. This would have been obvious because a person of ordinary skill in the art would have been motivated to combine the prior art to achieve the claimed invention and there would have been a reasonable expectation of success.

Shah-Nazaroff et al and Salganicoff et al are silent as to receiving the consumption record information in a buyer-assisted manner from at least one consumption record providing buyer entity. However, iMarketing News discloses gathering personal information in a buyer-assisted manner from at least one consumption-data providing buyer entity (see Abstract of iMarketing News). It would have been obvious to one of ordinary skill in the art to buy user consumption record information, as taught by iMarketing News, with the teachings of Shah-Nazaroff et al. in view of Salganicoff. The motivation for this combination is provided by iMarketing News: "for example, rather than just placing ads by context of by demographics, a cookbook merchant could offer to pay for the profiles of consumers who visit a cookbook page at Amazon.com. ... with profiles, you can look at them and say "these are the types of people we want to target with cookbook offers" and go back and buy advertising aimed at people who match those profiles."

Shah-Nazaroff et al., Salganicoff et al. and iMarketing News are silent as to weighting the ratings and creating an average rating based on the weighted ratings. However, Petras et al. disclose weighting the ratings from the individual buyer entities in the consumption group based on the knowledge and experience of the entity that made the rating (col. 7 lines 35-64); and creating an average rating at least partly based on the weighted ratings (col. 17 lines 39-47; col. 7 lines 35-64). It would have been obvious to one of ordinary skill in the art at the time of the invention that the "experience with" a subject is equivalent to "consumption-record information", thus the ratings are weighted based on the same criteria. Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al. with that of Shah-Nazaroff in view of Salganicoff and in further view of iMarketing News. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (Petras et al. col. 49 lines 50-53).

**As to claim 16,** Petras et al. disclose collecting information about users' knowledge of and experience with a subject and weighting ratings of subjects based on this information (col. 7 lines 35-64). Petras et al. do not explicitly teach that this information is viewing information and pay-per view purchase information. However, it would have been obvious to one of ordinary skill in the art at the time of the invention that "viewing information and pay-per view purchase information of video programs" are a measure of one's "knowledge of and experience with" a subject. Thus, it would have been obvious to one of ordinary skill in the art to combine the teachings of Petras et al.

with that of Shah-Nazaroff in view of Salganicoff and in further view of iMarketing News. The motivation would have been to assign "higher credibility to those users who deserve it, rendering a more accurate and reliable dataset." (Petras et al. col. 49 lines 50-53).

7. **Claims 13 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah-Nazaroff et al., US Patent 6,317,881, in view of Salganicoff, US Patent 5,734,720, in further view of Petras et al., US Patent No 7,143,089, and in further view of iMarketing News, v2, n10, p1+, 03/13/2000, as applied to claim 10 above, and in further view of Josephson, II et al., US Patent No. 7,167,842.

As to **claim 13**, Josephson, II et al. disclose a buyer assisted manner comprising receiving permission from the consumption data providing buyer entity to collect personal data. (col. 1 lines 47-67, col. 2 lines 1-3 describes information existing in preexisting databases [i.e. third parties] and providing means for customer specified consent to data collection; col. 5 lines 33-50)

As to **claim 14**, Josephson, II et al. disclose a buyer assisted manner which comprises sending for each of the consumption-data providing buyer entities, sending a communication to the consumption-data providing buyer entity allowing it to forbid the receiving of the consumption-record information, and only receiving the consumption record information associated with the consumption-data providing buyer entity if no communication has been received from the consumption-data providing buyer entity which forbids such receiving (col. 5 lines 33-50; fig. 2. The channel application 40

sends the user 48 communication (choice/consent API) allowing user to opt out of data collection. Opting out implies that the server is only receiving the consumption record information associated with the consumption-data providing buyer entity if no communication has been received from the consumption-data providing buyer entity which forbids such receiving).

It would have been obvious to one of ordinary skill in the art to combine the teachings of Shah-Nazaroff et al., Salganicoff, Petras et al., and iMarketing News, v2, n10, p1+, 03/13/2000, as applied to claim 10, with that of Josephson, II et al. as applied to claims 13 and 14. The motivation would have been that "since the current trend in business is toward obtaining more information/data regarding the consumer with the intent of providing better service based on the information/data, the consumer should be completely aware of such information/data mining. In addition to being aware that information/data is being collected, the consumer should be allowed choices as to what information/data will be collected." (Josephson, II et al. col. 1 lines 38-45).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HANCE whose telephone number is (571)270-5319. The examiner can normally be reached on M-F 8:00am - 5:00am EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derrick Ferris can be reached on (571) 272-3123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. H./  
Examiner, Art Unit 4134

/Derrick W Ferris/  
Supervisory Patent Examiner, Art Unit 4134

<b>Notice of References Cited</b>		Application/Control No.	Applicant(s)/Patent Under Reexamination	
		10/727,495	LANDESMANN, MARK	
Examiner ROBERT HANCE		Art Unit 4134		Page 1 of 1

**U.S. PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A US-5,734,720 A	03-1998	Salganicoff, Marcos	380/211
*	B US-6,317,881 B1	11-2001	Shah-Nazaroff et al.	725/24
*	C US-7,143,089 B2	11-2006	Petras et al.	707/5
*	D US-7,167,842 B1	01-2007	Josephson et al.	705/64
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

**FOREIGN PATENT DOCUMENTS**

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
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**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Magill, Ken. "Firm to Offer Cash for Consumer Profiles" 03/13/2000 iMarketing News v2, n10, p1-3
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
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